

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-10087R

Parcel No. 090/04064-000-000

Karen Sol,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 28, 2020. Karen Sol was self-represented. Assistant Polk County Attorney Dominic Anania represented the Board of Review.

Karen Sol owns a residential property located at 3921 Kingman Boulevard, Des Moines, Iowa. Its January 1, 2019, assessment was set at \$184,100. (Ex. A).

Sol petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1 & 4) (2019). The Board of Review modified the building value to \$130,700 and set the total assessment at \$173,300. (Ex. B).

Sol then appealed to PAAB re-asserting her claims and also contending her property was assessed for more than the value authorized by law. § 441.37(1)(a)(1, 2, & 4).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

According to the 2019 assessment listing, the subject property is a one-story with finished attic, brick and frame home built in 1930. It is listed as having 1738 square feet of gross living area, a fireplace, two bathrooms and a toilet room, and 200 square feet of low-quality basement finish. The home is listed in normal condition with a 4+05 Grade (average quality). A 5% obsolescence adjustment was made for the subject's foundation. The site is 0.215 acres. (Ex. A).¹

Sol asserts there are errors in her assessment. She asserts there is no basement finish but believes this error was corrected by a March 2020 inspection by Polk County Assessor's Office Appraiser, Brett Tierney. (Ex. 4). We note 200 square feet of low-quality finish with a depreciated assessed value of \$2,068² is listed on the subject's property record card. (Ex. A). Sol also testified to her opinion the property does not have a toilet room. She stated there is a toilet in the basement, but there are no surrounding walls.

¹ We note there are discrepancies between the subject's listing and the marketed adjusted cost report in Exhibit A. Our description of the property relies on the market adjusted cost report, which was used to value the property.

² \$3,014 replacement cost new - (0.43 physical depreciation and 0.05 functional obsolescence) X 1.32 neighborhood adjustment = \$2,068 rounded.

Sol submitted photos showing the garage and carport have been removed. The garage and carport are listed on the property record card but are given zero value to the assessment.

Sol believes her property should be listed in below-normal condition and testified Tierney agreed. Sol described many of the areas of her home she believes require replacement or repair, including tuckpointing the brick, new windows on the first floor, basement floor cracks and leaking walls, amongst other issues. In support of this claim she submitted photos of cracked and settled concrete; missing mortar; damaged and worn wood floors; rotted window sills; and past moisture damage in the basement. (Ex. 1). She submitted an estimated cost breakdown for needed repairs and updates. Sol asserts the estimated costs were obtained from contractor bids as well as cost estimates she made personally. She testified she has been employed in property management for many years and is therefore knowledgeable of repair costs. In her opinion the subject needs more than \$138,000 in repairs. (Ex. 2).

Sol purchased the property in 1993 and since then has refinished some hardwood floors, replaced the roof, and replaced the upstairs windows. She also made extensive repairs after an ice dam caused damage to the roof, windows, walls, and stucco.

Sol's friend, Thomas Keiderling, testified on her behalf. Keiderling explained he helps her with maintenance and repairs and believes the property should be listed in below-normal condition and confirmed the property's needed repairs. He is an attorney and testified he is not an appraiser and did not value the property.

Sol submitted eight properties in support of her claims. She believes four properties are comparable to her property as similar brick homes. All of the properties had lower percentage increases in their 2019 assessments compared to her home.

The following table summarizes the eight properties. (Exs. 5-6 & J-M).

Address	Gross Living Area (SF)	2017 Total Assessed Value	2019 Total Assessed Value	% Change
Subject	1738	\$134,100	\$173,300	29%
1 - 931 29th St	1625	\$130,900	\$132,200	1%
2 - 4010 School St	2046	\$164,200	\$184,700	13%
3 - 3804 Crocker St	1735	\$170,600	\$194,300	14%
4 - 1056 39th St	1528	\$170,100	\$193,000	14%
5 - 4004 Kingman Blvd	1880	\$208,200	\$231,600	11%
6 - 1051 40th St	936	\$130,800	\$149,500	14%
7 - 3915 Kingman Blvd	1952	\$199,300	\$240,000	20%
8 - 4003 Kingman Blvd	2492	\$359,500	\$391,100	9%

None of the properties sold during 2018. Sol made no adjustments to the properties for differences, but asserts her assessment increased at a higher year-over-year rate compared to these nearby and similar properties. Her property assessment increased approximately 37% between the 2018 and 2019 assessment prior to Board of Review adjustments to the assessment. After the Board of Review modified the assessment it still increased 29% from 2017. Comparatively, the other properties increased between 1% and 14% and her neighboring properties (Comparables 5, 7, and 8) between 9 and 20%.

Sol described that the properties listed in Exhibit 5 are in better condition than hers, have enclosed porches and patios or decks, and all but one have garages. She contends this makes the properties superior to hers yet their assessments only increased by 1-13%.

She described the properties listed in Exhibit 6 are neighboring properties and have better improvements than hers. These properties also increased at a lower percentage.

We note only two of Sol's properties are assessed for less than the subject. 931 29th Street is slightly smaller than the subject, only has one bathroom, does not have air conditioning, and has a smaller site. (Ex. F). 1051 40th Street is significantly smaller than the subject, has one bathroom, and is located on a smaller site. (Ex. K). All of the comparables are rated from Normal to Excellent condition.

The subject property has not recently sold and no appraisal or valuation has been completed on the property. Because of the condition, necessary repairs, and the rate of change of other properties, Sol believes her property's assessment should not have changed from its 2017 assessment of \$134,100.

The Board of Review called no witnesses. It asserts Sol has offered no evidence of the property's value.

Analysis & Conclusions of Law

Sol contends the subject property is inequitably assessed, over assessed, and there is an error in the assessment as provided under Iowa Code section 441.37(1)(a)(1, 2 & 4). Sol bears the burden of proof. § 441.21(3).

Sol claimed there was an error in the assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). Sol's testimony and photographs convince us there is an error in the assessment with respect to the basement finish and toilet room. We find the basement finish should be removed. We also find the toilet room should be removed and, in lieu thereof, a toilet fixture added to the listing.

As for the subject's condition rating, we are not persuaded to modify it at this time. It is one thing to make specific adjustments for improvements and features which have been shown not to exist on the subject property; it is another thing entirely to modify a subjective determination regarding the property's condition without having inspected it, without comparative evidence of other comparable properties' conditions, and without any evidence the subject's assessment exceeds its market value. See § 441.21(1) (directing that generally properties are to be assessed at their fair market value). Although Sol testified Tierney stated the subject's condition rating should be modified after his inspection, neither the Assessor's Office nor the Board of Review indicated to PAAB that such a change should be made. We also recognize the property is already receiving an adjustment for its foundation issues, which is the area of primary concern in our opinion.

Under section 441.37(1)(a)(1), a taxpayer may claim that their property is inequitably assessed when compared to other like properties in the taxing district. Under Iowa law, it is insufficient to simply compare the subject property's assessed value to the assessments of other properties or to compare the rate of change in assessments among properties to demonstrate inequity.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, we find Sol failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Sol submitted several properties for consideration but none have recently sold and we cannot develop the *Maxwell* ratio analysis for these properties. Further, because the *Maxwell* test also requires a showing of the subject property's actual market value as compared to its current assessment and an over assessment claim requires the same showing, we therefore, turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

Sol submitted eight comparable properties for comparison, but none had recently sold. The comparables each had different features and amenities from the subject that

could account for their differing valuation; of specific note is the variation in the size, condition, quality, and location. Thus we conclude Sol failed to offer evidence of the January 1, 2019 market value of her property which is typically done by an appraisal, a Comparable Market Analysis (CMA), or comparable sales adjusted for differences from the subject.

Viewing the record as a whole, we find Sol has not established inequity in her assessment, but has established errors in her assessment.

Order

PAAB ORDERS that the Board of Review should revalue the property consistent with this Order and submit the revaluation to PAAB within 10 days of the date of this Order. Upon filing of the revaluation, Sol will have 10 days to submit any objection. PAAB will issue a final order after receipt of the revaluation and any objection.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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Polk County Board of Review by eFile